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A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED

By The
86th General Assembly
Second Regular Session

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Prepared By
Office of State Courts Administrator
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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Except for the bills marked "vetoed," all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 1992, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

HCS SB 446 BUSINESS RECORDS AS EVIDENCE

Makes changes in the law on the use of copies of business records as evidence by eliminating the requirement that they be filed with the court fourteen days prior to the trial and requiring that copies be served to all parties at least seven days prior to trial. Section 490.692, RSMo Supp. 1991

HCS SB 447 SPENDTHRIFT TRUSTS

Defines certain trusts created as pension or retirement plans as spendthrift trusts, and provides that interests of participants in such trusts shall be exempt from execution for judgment debts of the participant. The bill also deletes the current qualifications for exemption of certain pension plans, and provides that pension plans which qualify as spendthrift trusts shall be exempt from execution for unpaid judgments. The pension exemption shall not apply to executions pursuant to orders dividing property in proceedings for dissolution of marriage or legal separation.

The bill also increases the motor vehicle exemption from five hundred to one thousand dollars and the mobile home exemption from one thousand to five thousand dollars. Sections 456.075, 456.630 and 513.430, RSMo 1986, and 456.080, RSMo Supp. 1991

SCS SB 457 DOMESTIC VIOLENCE/COURT FEE/CRIME VICTIMS

Extends the authority to impose a \$1.00 court cost to fund domestic violence shelters to any city which has such a shelter, a municipality in a county with a shelter, or a county or municipality whose residents use such shelters.

The bill also requires the Highway Patrol to include in its Missouri Crime Index all reported incidents of domestic violence.

Changes are made in services to crime victims. Sections 595.055, RSMo 1986, and 479.261, 595.050, and 595.105, RSMo Supp. 1991

This bill has an emergency clause. Signed on 7/8/92.

SCS SB 494 MOTORCYCLE SAFETY EDUCATION PROGRAM

The Department of Public Safety shall establish standards for and administer a motorcycle safety education program. The course may be used by the courts as an alternative to assessing points on the license for minor traffic violations. Sections 302.140, RSMo 1986, and 302.173, 302.177, and 302.302, RSMo Supp. 1991

CCS HCS SCS SB 499, 576 & 639 RETIREMENT SYSTEMS

This bill makes various changes in the Highway Patrol, Highways and Transportation, Public School, and MOSERS retirement systems including:

Allow any public employee retirement system or plan as defined in §105.660, RSMo to enter into cooperative agreements to transfer service from one system to another;

Retains the 65% maximum COLA benefit cap but changes the date from which the cap is computed from May 12, 1981 to October 1, 1986. The effect of this change is to eliminate counting all COLA increases received between May 12, 1981 and October 1 1986 against the 56% cap. Many retirees who had reached the cap will again be eligible for COLA increases. Other persons who retired prior to 10/1/86 but who have not hit the 65% cap will benefit by not having increases received prior to 10/1/86 counted toward the 65% cap;

Reduce the length of time required to fully vest from 10 years to 5 years;

Provide that, beginning on August 28, 1992, and for twelve months thereafter, members of MOSERS shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options regardless of the age of the member at the time of retirement, and shall also be entitled to any other provisions of chapter 104, RSMo that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least 55 years of age;

Allow judges to purchase up to four years of military service credit;

Allow any MOSERS employee eligible to receive a normal annuity or who has received a normal annuity based on prior creditable service and who, after January 1, 1990, was an elected circuit clerk of a first class county, to receive a normal annuity based on prior creditable service plus creditable service as an elected circuit clerk of such first class county;

Change the current law to provide that, if a member of MOSERS dies before retirement age and has five or more years of vesting service, the surviving spouse receives a survivorship benefit (at present, the member must have ten or more years of vesting service); and

Allow the courts to divide retirement benefits received from MOSERS or the Highway and Transportation Retirement System in any action for dissolution of marriage. Sections 104.346, 104.382 and 104.610, RSMo 1986, and 104.010, 104.035, 104.040, 104.050, 104.160, 104.180, 104.255, 104.260, 104.335, 104.340, 104.341, 104.343, 104.352, 104.370, 104.374, 104.380, 104.420, 104.436, 104.450, 104.470, 104.540, 104.612, 105.689, 169.050, 476.524, and 476.686, RSMo Supp. 1991

HS HCS SS#2 SCS SB 504, 548 and 538 JUVENILE RESTITUTION

This legislation contains the following provisions:

Legislative Subpoenas and Hearings

- 21.400 Changes the provisions relating to the issuance of subpoenas and subpoenas duces tecum by the legislature.
- 21.410 Permits the legislature to compel the production of documents as well as witnesses.

Suits Involving MOSERS

- 104.530 Suits or proceedings involving MOSERS and relating to medical insurance or disability benefits may be brought in the county of residence of the beneficiary.

Prosecutor Election in Boone County

- 105.050 Requires a special election in the case of a vacancy in the prosecuting attorney's office in a first class county without a charter form of government. This election is to be held within two months of the governor's appointment of a prosecutor.

Appeals of DFS Decisions

- 210.152 Appeals from decisions of DFS relating to reports of child abuse shall be de novo, rather than reviews of the record of the Division.

Juvenile Law

- 211.041, 211.181, 211.185, 219.021 Create a juvenile court restitution program which would be funded from certain assessments to the child and/or his parents and from earnings of the child while working on community service programs. The restitution fund would be administered by the clerk of the court, who would receive and disburse payments. Unsatisfied judgments for restitution could be extended beyond the age for normal release from the juvenile court.
- 211.063 Juveniles with a record of leaving court-ordered placement are subject to secure detention.
- 211.071 Requires the juvenile officer to consult with the prosecuting attorney concerning any offense for which the child could be certified as an adult.
- 211.321 Makes certain juvenile records available to probation officers and peace officers. Included are records of peace officers that may be accessed for the purpose of pursuing a civil forfeiture action in a drug case.

HS HCS SS#2 SCS SB 504, 548 and 538 JUVENILE RESTITUTION (Cont.)

Civil Immunity/Springfield/Agricultural Land

258.100 Provides civil immunities for landowners near certain public trail areas between Springfield and Wilson's Creek Battlefield National Park.

442.566 and 442.586 Relate to the ownership of agricultural land by aliens.

Child Custody

452.375 and 452.400 Restrict the granting of custody and/or visitation rights in cases where domestic violence has occurred and requires the court to make specific findings of fact in these cases.

Probate

475.055 Allows certain public agencies and not-for-profit corporations to be appointed guardians and conservators. Any agency directly providing residential services to a ward would be excluded.

475.060 Allows a corporation to be appointed as guardian.

Juvenile Commissioners/Judicial Conference

476.320 Alters the makeup of the governing body of the Judicial Conference and provides that commissioners of the juvenile courts are to be members of the Judicial Conference.

Municipal Courts/Judges

478.240 and 479.230 Authorize presiding judges to transfer municipal judges to other municipal courts in the circuit on a temporary basis.

479.020 Requires municipal judges to retire at age 70 instead of 75.

479.150 Allows jury trials in all municipal courts.

Court Reporters

485.100 Increases fees paid to court reporters and increases fees in cases where court reporters are used to preserve the record to \$2.50 per page. The \$5 court reporter fee (485.120) is increased to \$15.

485.150 Permits associate circuit judges to appoint a court reporter or stenographer in any civil case where both parties agree to such an appointment.

Admissible Statements by Children

491.075, 491.680 and 492.304 Change the criteria for admissible statements by children in certain custody and sexual abuse cases.

HS HCS SS#2 SCS SB 504, 548 and 538 JUVENILE RESTITUTION (Cont.)

Jury Supervisors

494.405 In first class, non-charter counties, the board of jury supervisors may appoint a jury supervisor and deputy jury supervisors. These are to be employees of the county.

Special Process Servers

506.140 Allows circuit clerks to appoint special process servers, following procedures established by local court rules. The court may allow reasonable fees to be taxed as costs.

Law Library Fees

514.440 and 514.450 Permit courts in Class I counties to increase the maximum law library fee amount that may be charged on certain civil cases. The fee is increased from \$5.00 to \$10.00. This legislation also provides that, in addition to judges of the circuit and officers of all courts of record in the county, all residents in any such county shall be entitled at all reasonable times to use the law library funded by this fee.

Civil Jurisdiction

517.011 Increases the civil jurisdiction of the associate division's civil cases from the current maximum of \$15,000 in damages to a new limit of \$25,000.

517.081 Deletes this section, which had provided for certification of certain civil cases when a case exceeded the jurisdictional limit of the associate division.

Condemnation Commissions

523.040 Provides that the condemnation commissions in St. Louis City and St. Louis County shall contain at least one certified or licensed real estate appraiser.

Sovereign Immunity/Municipalities

537.021, 537.600, 537.705, 537.730, 537.740, 537.742, and 537.756 Make changes relating to sovereign immunity and the Public Entity Risk Management Fund. Provides that it is the public policy of the state that sovereign immunity does not exist for the proprietary functions of any municipality in Missouri, that court decisions to the contrary are erroneous, and that parties aggrieved by such erroneous decisions within the past five years may re-file their cases.

Certain Mental Health Hearings to be Open

552.043 Requires that all hearings to determine the eligibility for release of persons acquitted on a finding of mental disease or defect shall be open.

HS HCS SS#2 SCS SB 504, 548 and 538 JUVENILE RESTITUTION (Cont.)

Educational Sessions

Section 1 Permits the circuit court of the 5th, 6th, 23rd, and 31st judicial circuits, by local rule, to establish a program of educational sessions for parties to actions for dissolution of marriage or in post-judgment proceedings involving custody or support. The fees or costs of these sessions shall be less than \$35 per person and will be assessed as court costs as deemed equitable.

Sheriffs' Training

Section 2 Relates to sheriffs' training certification in St. Charles County.

"Court en Banc"

Section 3 Provides that, whenever the term "en banc" is used in the laws of Missouri, it shall mean all judges of the court except municipal judges.

Certain Civil Suits

Section 4 Stipulates where suits against nonprofit corporations may be commenced.

Courthouse Repair Fee/St. Louis City

Section 5 Allows the circuit judges in St. Louis City to impose a fee of up to \$25 on some civil cases to fund courthouse restoration and repairs. This provision expires after 40 years.

HCS SS SCS SB 509, 442, & 679 SMOKING REGULATIONS

Regulates smoking in certain public places, makes it unlawful to sell or distribute any tobacco product to persons under the age of 18, and makes it unlawful for persons under age 18 to purchase tobacco products. A person who smokes in a restricted area is guilty of an infraction. The legislation also requires that notices relating to tobacco sales to minors be placed on cigarette vending machines.

SCS SB 529 COUNTY MUNICIPAL/TRAFFIC COURTS

This legislation authorizes the establishment of either a county municipal court or a traffic court, or both, in any 1st-class county with a charter form of government.

The county municipal court would be operated under law and rules applicable to municipal courts and judges will be appointed by the county executive. Court expenses will be county expenses and court costs will be retained by the county.

SCS SB 529 COUNTY MUNICIPAL/TRAFFIC COURTS (Cont.)

On the effective date of this act, the bill also provides for the circuit court to establish a traffic court which would be limited to one part-time commissioner until 6 months after the effective date and, if no county municipal court has been created, then additional state-paid traffic judges could be appointed.

If fully implemented by the circuit court, the bill provides for part-time judges (@ 1/3 FTE), with the salary tied to that of Associate Circuit Judge. Section 66.010, RSMo 1986

SB 535 "DRUG-FREE PUBLIC WORK FORCE ACT"

Creates the "Drug-Free Public Work Force Act." Public employees convicted of violations of Chapter 195 or similar federal or other-state statutes for the first time are to be suspended, for no more than three months, unless they complete a drug abuse treatment program within six months of the employer becoming aware of the conviction. Second-time convictions shall result in termination of employment. There are conditions for completion of suspension and for reemployment after a certain time period.

In addition, non-public employees who have been convicted of similar substance abuses are ineligible for public employment until such person has completed a drug abuse treatment program or is currently undergoing treatment in such a program. Chapter 292, RSMo

SB 540 PRIVATE PROBATION AND PAROLE SERVICES

Permits circuit and associate circuit judges, in cases where the board of probation and parole is not required to provide services for misdemeanor offenders, to contract with one or more private entities to provide such services. Similar provisions are created for municipal divisions.

The cost of these probation services shall be borne by the offenders; certain persons unable to pay may be exempted by the court.

SCS SB 573 and 634 ELDERLY ABUSE

Creates a series of crimes relating to abuse of the elderly and handicapped, particularly as it may occur in nursing homes and similar facilities. Certain persons, such as health care professionals and social workers, are required to report instances of suspected abuse; failure to do so is a class A misdemeanor. Sections 178.666, 197.318, 198.073, RSMo 1986, and 178.662, 198.070, 198.090, 208.152, 610.120, 660.050, and 660.250, RSMo Supp. 1991

HS HCS SCS SB 638 PROBATION/PAROLE/CORRECTIONS/VICTIMS' RIGHTS

This bill contains the following provisions:

- 43.503 Requires circuit clerks to notify the Department of Corrections by registered mail within 10 days of a subsequent conviction of a defendant already in the custody of Corrections.
- 191.656, 191.659, and 191.663 Require the Department of Corrections and certain other agencies to furnish HIV information to individuals who have been victims of specified sexual offenses.
- 217.690 Provides changes in parole eligibility and procedures.
- 491.075, 491.680, and 492.304 Change the criteria for admissible statements by children in certain custody and sexual abuse cases.
- 546.630 and 546.640 Repeal and rewrite these sections to provide that victims of a crime may file a petition in criminal court for damages caused by the defendant. If the defendant does not consent to the petition, a jury shall be impaneled to ascertain the damages. The victim may file the petition for up to five years after the date of conviction. The judgment may be enforced by a lien against the estate of the defendant, dating from the time of the judgment. Insurance proceeds may not be used to satisfy any judgment, and insurance companies shall not be required to defend criminals in actions brought under this act. The prosecuting attorney and public defender are prohibited from representing the parties in the restitution proceedings.
- 595.045 Amends the "Son of Sam" law. (This section has an emergency clause.)
- 595.209 Provides technical changes regarding the notification of persons interested in parole hearings.
- 595.212 Requires prosecutors to provide victims and witnesses with information regarding the right of victims, family members and witnesses, at their written request, to be informed of any release or escape of the offender from custody, and the right of victims to be present at any parole eligibility hearing. This information is to include the address and title of the officer within the board of probation and parole to whom all written requests shall be directed.

HCS SB 648 PUBLIC OFFICIALS/REIMBURSEMENT TO COUNTIES

This act pertains primarily to county officials. It also includes a technical change which revises the statutes relating to the compensation of circuit clerks to reflect changes made in the definition of county classifications.

HCS SB 648 PUBLIC OFFICIALS/REIMBURSEMENT TO COUNTIES
(Cont.)

The bill changes the state reimbursement level to counties for the prosecution of crimes associated within correctional institutions from a permissive 50% of expenses to a mandatory level of actual expenses not to exceed \$500 per defendant. Some sections of this bill have an emergency clause. Sections 50.850 and 483.083, RSMo Supp. 1991

HCS SB 688 LOAN REGULATIONS/COLLECTION AGENCIES MAY BRING SUIT

Relating primarily to certain loans to corporations, businesses and real estate loans, this legislation also contains a provision allowing collection agencies to take assignment of claims in their own names for the purpose of billing and bringing suit on the claim. The court may authorize payment of reasonable attorney's fees and costs to the prevailing party in such suits. Sections 408.035, 408.080, and 516.155, RSMo 1986, and 362.105, 408.036, 408.140, 432.045, and 443.055, RSMo Supp. 1991

CCS SB 705 LOAN REGULATIONS/MONEY LAUNDERING/BAD CHECKS

This act, which prohibits persons making loans from receiving advance fees prior to loan closing and regulates "foreclosure consultants," also contains a provision creating the crime of money laundering. Money laundering is a class B felony.

The bill also alters the definition of the crime of passing a bad check and the requirements for "notice in writing" relating to bad checks. Section 570.120, RSMo Supp. 1991

SB 817 PUBLIC ADMINISTRATORS

Provides a change to the law on succession of public administrators in charter counties to extend the provisions to Clay and Platte Counties. Section 473.767, RSMo Supp. 1991

SB 818 SPECIAL PROCESS SERVERS

Allows circuit clerks to appoint special process servers, following procedures established by local court rules.

A party may file an application to the court requesting that any fees paid to a special process server be taxed as costs in the action. The court may order a reasonable amount of such fees as costs. Section 506.140, RSMo 1986

SB 833 ESTABLISHES CHECK SYSTEM FOR PAYMENT OF COUNTY BILLS

This legislation includes a provision requiring circuit clerks to record judgment liens in a bound book or computerized record. (See also HB 982.)

HOUSE BILLS

HB 852 SEARCH AND SEIZURE POWERS FOR HIGHWAY PATROL

Extends search and seizure powers to the highway patrol. Members may request a search warrant from the prosecuting attorney provided the sheriff of the county in which the warrant is to be served, or his designee, is notified by the applicant. The sheriff or his designee shall participate in serving the warrant. This power expires on March 15, 1995.

The legislation also provides that each criminal justice agency which submits criminal arrest, charge and disposition information to the central repository shall make criminal history information available on request to the investigator of the Missouri senate without charge. Section 43.200, RSMo 1986

HCS HB 894 MISSOURI PUBLIC HEALTH SERVICES FUND/MARRIAGE LICENCE COPY FEE REDUCED

This legislation relates primarily to a public health services fund. One of its provisions reduces the fee to be collected for a certified copy of a marriage license from \$20.00 to \$7.00. (The fee for a marriage license remains at \$20.00.) Sections 193.245, RSMo 1986, and 193.265 and 451.151, RSMo Supp. 1991

HB 903 GUARDIANSHIP AND CONSERVATORSHIP

Provides that a ward or protectee may, on his own, petition a court either to restore him or to decrease the powers of his guardian or conservator. If the court determines that the petition is frivolous, the court may dismiss the petition without a hearing. Section 475.083, RSMo 1986

SCS HB 982 JUDGMENT LIENS ENTERED IN BOUND BOOK OR COMPUTER/MECHANICS' LIENS

Requires circuit clerks to maintain abstracts of civil judgments in a bound book or computerized record which shall be available for public inspection.

Also makes void as against public policy any agreement to waive a mechanic's lien as consideration for a contract to work on or supply materials to real property. Sections 511.500 and 511.510, RSMo 1986

HB 1155 TAX LIENS

Allows the Director of Revenue to request and receive execution of tax liens filed on income and sales tax delinquencies by taxpayers. The bill also provides that such liens shall have the full force and effect of the circuit court until satisfied from the time of the filing of the lien. Sections 143.141, 143.902, 144.011 and 144.380, RSMo Supp. 1991

SCS HCS HB 1434 & 1490 URBAN HOMESTEADING/LOCAL GOVERNMENT/CIRCUIT BREAKER/LIEN LAW

This is a multi-subject bill, most of which will not be summarized here. Of particular interest to the courts are provisions that would amend the lien law to include local governments in certain provisions and allow for the partial release of a mechanic's lien by a claimant when multiple lots, tracts or parcels are the subject of one mechanic's lien. There is also a section authorizing the court to issue a judicial deed transferring title to certain property in receivership to the receiver or a not for profit organization if the court has appointed a receiver to abate a nuisance and ten years has elapsed and no party in interest has taken action to acquire possession of the property. Sections 67.430, 89.090, 141.420, 141.520, 429.012, 429.020, 429.070 and 441.500, RSMo 1986, and 135.010, 319.200, 429.010, and 429.015, RSMo Supp. 1991

SCS HB 1440 RETIREMENT PROVISIONS

This bill pertains primarily to retirement provisions for employees of political subdivisions (Chapter 70). Section 1, however, relates to members of the highways and transportation system and members of MOSERS. It provides that, beginning on August 28, 1992, and for twelve months thereafter, members of the above-mentioned systems shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options regardless of the age of the member at the time of retirement and shall also be entitled to any other provisions of chapter 104, RSMo, that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least 55 years of age.

HB 1471 COURT FEE FOR DOMESTIC VIOLENCE SHELTERS

Extends the authority to impose a \$1.00 court cost to fund domestic violence shelters to any city which has such a shelter, a municipality in a county with a shelter, or a county or municipality whose residents use such shelters. This bill has an emergency clause. Section 479.261, RSMo Supp. 1991 Signed 5/21/92.

HB 1492 GRANDPARENT VISITATION/MEDIATION

Provides that, upon the written request of a grandparent denied visitation with a grandchild, the associate division of the circuit court may order mediation with any party who has custody or visitation rights with the minor child and appoint a mediator. Such written request need not follow the rules of civil procedure and need not be written or filed by an attorney.

Costs of the mediation are to be paid by the grandparent requesting the mediation. The venue shall be in the county where the child resides.